

HR 2828 IH

108th CONGRESS
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H. R. 2828

To authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

IN THE HOUSE OF REPRESENTATIVES

July 23, 2003

Mr. CALVERT (for himself, Mr. DOOLEY of California, Mr. RADANOVICH, Mr. ORTIZ, Mr. NUNES, Mr. CARDOZA, Mr. OSBORNE, Mr. BACA, Mr. RENZI, Mr. GALLEGLY, Mr. LEWIS of California, Mr. THOMAS, Mr. DREIER, Mr. HUNTER, Mrs. BONO, Mr. COX, Mr. DOOLITTLE, Mr. GARY G. MILLER of California, Mr. MCKEON, Mr. ROYCE, Mr. CUNNINGHAM, Mr. ROHRABACHER, Mr. ISSA, Mr. OSE, and Mr. POMBO) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Water Supply, Reliability, and Environmental Improvement Act'.

SEC. 2. TABLE OF CONTENTS.

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- Sec. 501. Rural water supply program.

SEC. 3. DEFINITIONS.

For purposes of this Act:

- (1) BAY-DELTA SOLUTION AREA- The term 'Bay-Delta solution area' means the Bay-Delta watershed and the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, California, and the areas in which diverted/exported water is used.
- (2) BAY-DELTA WATERSHED- The term 'Bay-Delta watershed' means the Sacramento River-San Joaquin River Delta, and the rivers and watersheds that are tributary to that delta.

(3) CALFED BAY-DELTA PROGRAM- The term 'CALFED Bay-Delta Program' means the programs, projects, complementary actions, and activities undertaken through coordinated planning, implementation, and assessment activities of the State and Federal agencies in a manner consistent with the Objectives and Solution Principles of the CALFED Bay-Delta Program as stated in the Record of Decision.

(4) CONGRESSIONAL AUTHORIZING COMMITTEES- The term 'congressional authorizing committees' means the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(5) COMMISSIONER- The term 'commissioner' means the Commissioner of the Bureau of Reclamation.

(6) ENVIRONMENTAL WATER ACCOUNT- The term 'Environmental Water Account' means the water account established by the Federal agencies and State agencies pursuant to the Record of Decision to reduce incidental take and provide a mechanism for recovery of species.

(7) FEDERAL AGENCIES- The term 'Federal agencies' means the Federal agencies that are signatories to Attachment 3 of the Record of Decision.

(8) GOVERNOR- The term 'Governor' means the Governor of the State of California.

(9) IMPLEMENTATION MEMORANDUM- The term 'Implementation Memorandum' means the Calfed Bay-Delta Program Implementation Memorandum of Understanding dated August 28, 2000, executed by the Federal agencies and the State agencies, as such record of decision may be adapted or modified by the Secretary in accordance with applicable law.

(10) RECLAMATION STATES- The term 'Reclamation States' means the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wyoming, and Texas.

(11) RECORD OF DECISION- The term 'Record of Decision' means the Federal programmatic Record of Decision dated August 28, 2000, issued by the Federal agencies and supported by the State.

(12) SECRETARY- The term 'Secretary' means the Secretary of the Interior.

(13) STATE- The term 'State' means the State of California.

(14) STATE AGENCIES- The term 'State agencies' means the California State agencies that are signatories to Attachment 3 of the Record of Decision.

(15) WATER RESOURCE AGENCIES- The term 'Water resource agencies' means the Federal agencies that are signatories to Attachment 3 of the Record of Decision.

(16) WATER SUPPLY- The term 'water supply' means a quantity of water that is developed or derived from-

- (A) increased water yield;
- (B) recycling existing sources;

- (C) desalination of seawater or brackish water;
 - (D) surface or ground water storage;
 - (E) conservation; or
 - (F) other actions or water management tools that improve the availability and reliability of water supplies for beneficial uses in all water year types, including critically dry years.
- (17) WATER YIELD- The term 'water yield' means a new quantity of water in storage that is reliably available in critically dry years for beneficial uses.

SEC. 4. PURPOSES.

The purposes of this Act are as follows:

- (1) To enhance and improve water supply, water yield, and water reliability coordinated through the Secretary, in cooperation, and consultation with Water Resource Agencies.
- (2) To foster and promote the development of supplemental and new water supplies, coordinated through the Secretary, in consultation and coordination with the Water Resource Agencies, through water reuse and salinity management.
- (3) To establish a competitive, performance-based program, coordinated through the Secretary, in consultation and coordination with the Water Resource Agencies, to provide financial incentives to entities to develop demonstration projects designed to treat seawater and brackish water, wastewater and impaired ground water.
- (4) To establish an office, in any Reclamation State requesting such an office, for the use of all Federal and State agencies that will be involved in issuing permits and conducting environmental reviews for water supply, water supply capital improvement projects, levee maintenance, and delivery systems in any Reclamation State requesting such an office.
- (5) To provide assistance to States, municipalities, other local governmental agencies (including soil and water conservation districts) and investor-owned utilities that provide municipal water supply service pursuant to State law in the design and construction of projects to desalinate seawater and put to beneficial use impaired ground water and brackish water.
- (6) To implement and abide by the 4 primary objectives and solution principles set forth in the CALFED Bay-Delta Program. To authorize funding and coordinate sustained funding sources, through the Secretary, for the implementation of a comprehensive program to achieve increased water yield and water supply, improved water quality, and enhanced environmental benefits as well as improved water system reliability, water use efficiency, watershed management, water transfers, and levee protection.
- (7) To implement other related provisions to improve water supply and yield.

TITLE I--DEPARTMENT OF INTERIOR, COMPETITIVE GRANT PROGRAM

SEC. 101. GENERAL AUTHORITY.

(a) **ESTABLISHMENT OF A WATER RESOURCES COORDINATION OFFICE-** There shall be established within the Office of the Secretary the Office of the Federal Water Resources Coordinator (referred to in this title as the 'Coordinator') who shall be responsible for coordinating the Water Resource Agencies activities addressing water desalination (including sea and brackish water), impaired ground water, brine removal, and water reuse projects and activities authorized under this title.

(b) **SECRETARIAL RESPONSIBILITY-** The Secretary, through the Coordinator, shall carry out the responsibilities, as specifically identified as a responsibility of the Coordinator under this title, and may not delegate these responsibilities to the Water Resource Agencies. The Coordinator at its sole option may use the services of the Water Resource Agencies on any project deemed necessary.

(c) **ASSESSMENT OF EXISTING FEDERAL AUTHORITIES-** The Secretary, through the Coordinator and in consultation with the Water Resource agencies, shall develop and transmit to Congress no later than 60 days after enactment of this Act, an assessment report that identifies the following:

- (1) A list of authorities, including mandatory and discretionary trust funds, other than those under this title, to undertake activities under section 102.
- (2) A list of all Water Resource Agencies expenditures since fiscal year 1998 undertaken for projects and activities related to this title.
- (3) A plan of Water Resource Agencies coordination to meet the criteria, and guidelines as determined under this title.
- (4) A detailed/coordinated Water Resource Agencies budget review document, including outyears funding requirements.
- (5) Recommendations for alternative financing mechanisms.

(d) **ESTABLISHMENT OF GUIDELINES FOR ACTIVITIES UNDERTAKEN BY THE COORDINATOR-**

(1) **RULES AND GUIDELINES-** In carrying out activities under this title the Secretary, acting through the Coordinator, in coordination with the Water Resource Agencies, shall issue rules and guidelines for the submission of selection, solicitation, and timelines of eligible projects and activities seeking grants assistance to analyze, plan, develop and construct, including but not limited to, the following:

- (A) Sea and brackish water desalination projects, including analysis and technology development, reclamation of wastewater, and impaired ground and surface waters.
- (B) Brine management and disposal, including analysis and technology development. Such analysis shall include, but not be limited to, the effects of concentrate disposal and possible mitigation measures.

(C) Water reuse, including, but not limited to, techniques for cleanup and treatment of ground water contamination, especially ground water basins that are the primary source of drinking water supplies.

(2) **EQUITABLE SELECTION-** The Secretary shall ensure the rules and guidelines provide for the

equitable selection, to the maximum extent practicable, of projects and distribution of grants among the eligible activities identified under this section.

(3) **TIMEFRAME-** Such rules and guidelines shall be issued not later than 90 days after the date of the enactment of this Act.

(e) **AGENCY PARTICIPATION-** The Coordinator, in consultation with the Water Resource Agencies, shall--

(1) determine available and appropriate accounts, both mandatory and permanent, including Federal trust funds; and

(2) direct the Federal agency heads to spend authorized funds, if available within their agency, based on their proportional Federal interest.

SEC. 102. AUTHORITY TO STUDY, PLAN, DESIGN, AND CONSTRUCT.

(a) **IN GENERAL-** The Secretary, through the Coordinator, in cooperation and consultation with the Water Resource Agencies, shall undertake a competitive grant program--

(1) to investigate and identify opportunities for the study, plan, and design of activities under this title; and

(2) to construct demonstration and permanent facilities, or the implementation of other programs and activities, to meet the criteria under this title.

(b) **CONDITIONS-** No grant may be made under this title for the design and construction of any project until after--

(1) an appraisal investigation and a feasibility study (which may be performed, if applicable, by the non-Federal sponsor and submitted to the Secretary, through the Coordinator, for review) have been completed and approved by the Secretary, through the Coordinator;

(2) the Secretary, through the Coordinator, has determined that, if applicable, the non-Federal project sponsor has the financial resources available to fund the non-Federal share of the project's costs; and

(3) the Secretary, through the Coordinator, has approved, if applicable, a cost-sharing agreement with the non-Federal project sponsor that commits the non-Federal project sponsor to funding its share of the project's construction costs on an annual basis, and ongoing operations and maintenance.

SEC. 103. CRITERIA FOR GRANTS.

In making grants pursuant to this title, the Secretary, acting through the Coordinator shall give priority to those projects which meet at least one of the following criteria:

- (1) The requirements of the Secretary, as applicable, and any applicable State requirements.
- (2) Is agreed to by the Federal and non-Federal entities with authority and responsibility for the project.
- (3) Increase water supply yield.
- (4) Improve water use efficiency and water conservation.
- (5) Reduce or stabilize demand on existing Federal and State water supply facilities.
- (6) Improve water quality.
- (7) Employ innovative approaches, including but not limited to, ground water recharge.
- (8) Facilitate the transfer and adoption of technology.
- (9) Employ regional solutions that increase the availability of locally and regionally developed water supplies.
- (10) Remediate a contaminated ground water basin.
- (11) Provide a secure source of new water supplies for national defense activities.
- (12) Reduce the threat of a water supply disruption as a result of a natural disaster or acts of terrorism.
- (13) Help Water Resource Agencies meet existing legal requirements, contractual water supply obligations, Indian trust responsibilities, water rights settlements, water quality control plans and department of health requirements, Federal and State environmental laws, the Federal Water Pollution Control Act, or other obligations.
- (14) Promote and applies a regional or watershed approach to water resource management or cross-boundary issues, implements an integrated resources management approach, increases water management flexibility, or forms a partnership with other entities.
- (15) Improve health and safety of the general public.
- (16) Provide benefits outside the region in which the project occurs.
- (17) Provide benefits to the agricultural community.

SEC. 104. ANNUAL REPORT.

The Secretary shall provide the Congress an annual report that includes the following:

- (1) A list of projects, and project details, amount of past, current, and projected funding.
- (2) Documentation of the accounts within the Water Resource Agencies funding.
- (3) The benefits gained by projects, and to which beneficiaries and users, funded under this title.

(4) An assessment of how the project met each of the evaluation criteria under this title.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) **ACTIVITIES AND PROJECTS UNDER THIS TITLE-**

(1) **DETERMINATION OF WATER RESOURCES AGENCY**

PARTICIPATION- If existing authorities are not available to carry out activities addressed under this title, the Coordinator, in consultation with the Water Resource agencies, shall make the determination of Federal participation and Federal agency cost share.

(2) **FUNDING-** Subject to section 105(a)(1) and section 105(b), there are authorized to be appropriated--

(A) \$50,000,000 for fiscal year 2004; and

(B) \$100,000,000 for each fiscal year thereafter.

(b) **LIMITATIONS ON GRANTS-**

(1) **LOCATION OF PROJECT-** Grants carried out by the Secretary, through the Coordinator, may be carried out through the 50 States.

(2) **PER STATE LIMIT-** Except as provided in under this section, of the amount available in a fiscal year for grants under this title, not more than 30 percent may be used for projects in a single State.

(c) **COST SHARING-** Except as provided under this section, and notwithstanding any other provision of this title. Grants for projects receiving Federal assistance under this title shall not exceed the lesser of \$50,000,000 (indexed annually for inflation) or 35 percent of the total cost of the project.

SEC. 106. LIMITATION ON ELIGIBILITY FOR FUNDING.

A project that receives funds under this Act shall be ineligible to receive Federal funds from any other source for the same purpose unless such funds are provided to ensure compliance with a Federal mandate.

TITLE II--CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT ACT

SEC. 201. CALFED BAY-DELTA PROGRAM.

(a) **FINDINGS-** Congress finds as follows:

(1) The mission of the CALFED Bay-Delta Program is to develop and implement a long-term comprehensive plan that will increase water supply and yield, improve water management, and restore the ecological health of the Bay-Delta solution area.

(2) The CALFED Bay-Delta Program was developed as a joint Federal-State program to deal effectively with the multijurisdictional issues involved in managing the Bay-Delta Watershed.

(b) **IN GENERAL-**

(1) AUTHORIZATION- The Federal agencies, in consultation with State agencies, are authorized to participate in the CALFED Bay-Delta Program, in accordance with this title, and consistent with the Objectives and Solution Principles set forth in the Record of Decision.

(2) GOALS- The goals of the CALFED Bay-Delta Program shall consist of components that include water supply and yield, ecosystem restoration, water supply reliability, conveyance, water use efficiency, water quality, water transfers, watersheds, Environmental Water Account, levee stability, and science.

(3) BALANCE- CALFED Bay-Delta Program activities consisting of protecting water quality, including but not limited to, drinking water quality, restoring ecological health, improving water supply reliability, including additional water supply and water yield and conveyance, and protecting levees in the Bay-Delta watershed, shall progress in a balanced manner.

(c) ADMINISTRATION OF ACTIVITIES-

(1) IN GENERAL- The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in this title, subject to the cost-share and other provisions of this title, if the activity--

(A) has been subject to environmental review and approval as required under applicable Federal and State law; and

(B) has been approved and certified by the Secretary to be consistent with the Objectives and Solution Principles of the CALFED Bay-Delta Program as stated in Record of Decision.

(2) MULTIPLE BENEFIT PROJECTS FAVORED- The Secretary and Federal agencies are authorized to carry out the activities set forth in this title. In selecting projects and programs for increasing water yield and water supply, improving water quality, and enhancing environmental benefits, projects and programs with multiple benefits shall be emphasized.

(3) ELEMENTS REGULATED- To the extent that CALFED Bay-Delta Program projects and elements are subject to regulation under section 404 of the Clean Water Act, the United States Army Corps of Engineers and the United States Environmental Protection Agency shall not consider, as alternatives to projects that are elements of the overall CALFED Bay-Delta Program, programs, projects, or actions beyond those described in the Record of Decision, nor shall they favor one CALFED Bay-Delta Program project or element over another.

(4) BALANCE- The Secretary shall ensure that all elements of the CALFED Bay-Delta Program need to be completed and operated cooperatively to maintain the balanced progress in all CALFED Bay-Delta Program areas.

(d) PROGRAM ACTIVITIES-

(1) WATER STORAGE- Except as provided by section 207(b), the amounts authorized to be appropriated for fiscal years 2004 through 2007

under this Act, no more than \$102,000,000 may be expended for the following:

(A) **WATER STORAGE SUPPLY AND YIELD-** For purposes of implementing the CALFED Bay-Delta Program, the Secretary is authorized to undertake all necessary planning activities and feasibility studies required for the development of recommendations by the Secretary to Congress on the construction and implementation of specific water supply and yield, ground water management, and ground water storage projects and implementation of comprehensive water management planning. The requirements of section 9(a) of the Act of August 4, 1939 (43 U.S.C. 485h(a); 53 Stat. 1193) shall be deemed to be met through the performance of a feasibility study as authorized within this section as well as those feasibility studies authorized under the Consolidated Appropriations Resolution Fiscal Year 2003, Public Law 108-7, House Report 108-10, division D, title II, section 215.

(B) **FEASIBILITY STUDIES-** All feasibility studies completed for storage projects as a result of this section shall include identification of project benefits and beneficiaries and a cost allocation plan consistent with the benefits to be received, for both governmental and non-governmental entities.

(C) **DISAPPROVAL RESOLUTION-** If the Secretary determines a project to be feasible, and meets the requirements under subparagraph (B), the report shall be submitted to Congress. If Congress does not pass a disapproval resolution of the feasibility study during the first 120 days before Congress (not including days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) the project shall be authorized, subject to appropriations.

(D) **WATER SUPPLY AND WATER YIELD STUDY-** (i) The Secretary, acting through the Bureau of Reclamation and in consultation with the State, shall conduct a study of available water supplies and water yield and existing demand and future needs for water--

(I) within the units of the Central Valley Project;

(II) within the area served by Central Valley Project agricultural water service contractors and municipal and industrial water service contractors; and

(III) within the Bay-Delta solution area.

(ii) **RELATIONSHIP TO PRIOR STUDY-** The study under clause (i) shall incorporate and revise as necessary the study required by section 3408(j) of the Central Valley Project Improvement Act of 1992 (Public Law 102-575).

(E) **REPORT-** The Secretary shall submit a report to the congressional authorizing committees by not later than 180 days

after the date of the enactment of this title describing the following:

(i) Water yield and water supply improvements, if any, for Central Valley Project agricultural water service contractors and municipal and industrial water service contractors.

(ii) All water management actions or projects that would improve water yield or water supply and that, if taken or constructed, would balance available water supplies and existing demand for those contractors and other water users of the Bay-Delta watershed with due recognition of water right priorities and environmental needs.

(iii) The financial costs of the actions and projects described under clause (ii).

(iv) The beneficiaries of those actions and projects and an assessment of their willingness to pay the capital costs and operation and maintenance costs thereof.

(F) OTHER ACTIVITIES- Studying, developing and implementing ground water management and ground water storage projects (not to exceed \$50,000,000); and

(G) PLANNING- Comprehensive water management planning (not to exceed \$6,000,000).

(2) CONVEYANCE- Except as provided by section 207(b), the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$77,000,000 may be expended for the following:

(A) South Delta Actions (not to exceed \$45,000,000):

(i) South Delta Improvements Program for the following:

(I) To increase the State Water Project export limit to 8500 cfs, subject to subclause (VI).

(II) To install permanent, operable barriers in the south Delta. The Federal Agencies shall cooperate with the State to accelerate installation of the permanent, operable barriers in the south Delta, with the intent to complete that installation not later than the end of fiscal year 2006.

(III) To design and construct fish screens and intake facilities at Clifton Court Forebay and the Tracy Pumping Plant facilities.

(IV) To increase the State Water Project export to the maximum capability of 10,300 cfs.

(ii) Reduction of agricultural drainage in south Delta channels and other actions necessary to minimize impacts of such drainage on water quality, including but not limited to, design and construction of the relocation of drinking water intake facilities to delta water users. The Secretary

shall coordinate actions for relocating intake facilities on a time schedule consistent with subclause (i)(II).

(iii) Design and construction of lower San Joaquin River floodway improvements.

(iv) Installation and operation of temporary barriers in the south Delta until fully operable barriers are constructed.

(v) Actions to protect navigation and local diversions not adequately protected by the temporary barriers.

(vi) Actions to increase pumping shall be accomplished in a manner consistent with California law protecting:

(I) deliveries to, costs of, and water suppliers and water users, including but not limited to, agricultural users, that have historically relied on water diverted from the Delta; and

(II) the quality of water for existing municipal, industrial, and agricultural uses.

(vi) Actions at Franks Tract to improve water quality in the Delta.

(B) North Delta Actions (not to exceed \$12,000,000):

(i) Evaluation and implementation of improved operational procedures for the Delta Cross Channel to address fishery and water quality concerns.

(ii) Evaluation of a screened through-Delta facility on the Sacramento River.

(iii) Design and construction of lower Mokelumne River floodway improvements.

(C) Interties (not to exceed \$10,000,000):

(i) Evaluation and construction of an intertie between the State Water Project and the Central Valley Project facilities at or near the City of Tracy.

(ii) Assessment of the connection of the Central Valley Project to the State Water Project's Clifton Court Forebay with a corresponding increase in the Forebay's screened intake.

(D) Evaluation and implementation of the San Luis Reservoir lowpoint improvement project (not to exceed \$10,000,000).

(3) WATER USE EFFICIENCY- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$153,000,000 may be expended for the following:

(A) Water conservation projects that provide water supply reliability, water quality, and ecosystem benefits to the Bay-Delta solution area (not to exceed \$61,000,000).

(B) Technical assistance for urban and agricultural water conservation projects (not to exceed \$5,000,000).

(C) Water recycling and desalination projects, including but not limited to projects identified in the Bay Area Water Recycling Plan

and the Southern California Comprehensive Water Reclamation and Reuse Study (not to exceed \$84,000,000), as follows:

- (i) In providing financial assistance under this clause, the Secretary shall give priority consideration to projects that include regional solutions to benefit regional water supply and reliability needs.
- (ii) The Secretary shall review any feasibility level studies for seawater desalination and regional brine line projects that have been completed, whether or not those studies were prepared with financial assistance from the Secretary.
- (iii) The Secretary shall report to the Congress within 90 days after the completion of a feasibility study or the review of a feasibility study for the purposes of providing design and construction assistance for the construction of desalination and regional brine line projects.
- (iv) The Federal share of the cost of any activity carried out with assistance under this clause may not exceed the lesser of 35 percent of the total cost of the activity or \$50,000,000.

(D) Water measurement and transfer actions (not to exceed \$1,500,000).

(E) Certification of implementation of best management practices for urban water conservation (not to exceed \$1,500,000).

(4) WATER TRANSFERS- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$3,000,000 may be expended for the following:

- (A) Increasing the availability of existing facilities for water transfers.
- (B) Lowering transaction costs through permit streamlining.
- (C) Maintaining a water transfer information clearinghouse.

(5) ENVIRONMENTAL WATER ACCOUNT- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$75,000,000 may be expended for implementation of the Environmental Water Account.

(6) INTEGRATED REGIONAL WATER MANAGEMENT PLANS- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$95,000,000 may be expended for the following:

- (A) Establishing a competitive grants program to assist local and regional communities in California in developing and implementing integrated regional water management plans to carry out the Objectives and Solution Principles of the CALFED Bay-Delta Program as stated in the Record of Decision.
- (B) Implementation of projects and programs in California that improve water supply reliability, water quality, ecosystem restoration, and flood protection, or meet other local and regional

needs, that are consistent with, and make a significant contribution to, Stage 1 of the CALFED Bay-Delta Program.

(7) ECOSYSTEM RESTORATION- (A) Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this title, no more than \$100,000,000 may be expended for projects under this subsection.

(B) The Secretary is authorized to undertake the following projects under this paragraph:

- (i) Restoration of habitat in the San Francisco Bay-Delta watershed, San Pablo Bay, and Suisun Bay and Marsh, including tidal wetlands and riparian habitat.
- (ii) Fish screen and fish passage improvement projects.
- (iii) Implementation of an invasive species program, including prevention, control, and eradication.
- (iv) Development and integration of State and Federal agricultural programs that benefit

wildlife into the Ecosystem Restoration Program.

(v) Financial and technical support for locally-based collaborative programs to restore habitat while addressing the concerns of local communities.

(vi) Water quality improvement projects to manage salinity, selenium, mercury, pesticides, trace metals, dissolved oxygen, turbidity, sediment, and other pollutants.

(vii) Land and water acquisitions to improve habitat and fish spawning and survival in the Bay-Delta watershed.

(viii) Integrated flood management and levee protection projects for improving ecosystem restoration.

(ix) Scientific evaluations and targeted research on program activities, including appropriate use of adaptive management concepts.

(x) Preparation of management plans for all properties acquired, and update current management plans, prior to the purchase or any contribution to the purchase of any interest in land for ecosystem.

(xi) Strategic planning and tracking of program performance using established protocols and/or bio-indicators.

(C) Project Initiation Report for each project, describing project purpose, objective, and cost, shall be transmitted to Congress following Secretarial certification, 30 days (not including days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) prior to implementing ecosystem restoration actions as described under this paragraph. Such reports shall be required for all ecosystem projects, (including comprehensive projects that are composed of several components and are to be completed by staged implementation) exceeding \$20,000 in Federal funds. Annual ecosystem restoration project summary reports shall be

submitted to Congress through the Secretary highlighting progress of the project implementation. The reports required to be submitted under this paragraph shall consider the following on each project:

- (i) A description of ecological monitoring data to be collected for the restoration projects and how the data are to be integrated, streamlined, compatible, and designed to measure overall trends of ecosystem health in the Bay-Delta watershed.
- (ii) Whether the restoration project has integrated monitoring plans and descriptions of protocols, or bio-indicators, to be used for gauging cost-effective performance of the project.
- (iii) Whether the proposed project is a part of a larger, more comprehensive restoration project in a particular part of the solution area, and if so, how the proposed project contributes to the larger project.
- (iv) A secretarial determination, or strategy, that utilizes existing Federal land, State land, or other land acquired for ecosystem restoration, with amounts provided by the United States or the State, to the extent that such lands are available within the CALFED solution area.
- (v) A determination of the potential cumulative impacts, or induced damages of fee title, easement, and/or lease acquisition of land on local and regional economies, and adjacent land and landowners; and a description of how such impacts will be mitigated.
- (vi) A description of actions that will be taken to mitigate any induced damages from the conversion of agriculture land including the degree to which wildlife and habitat values will increase due to the land conversion.

(D) Conditions, if applicable, for projects and activities under this paragraph are as follows:

- (i) A requirement that before obligating or expending Federal funds to acquire land, the Secretary shall first determine that existing Federal land, State land, or other land acquired for ecosystem restoration with amounts provided by the United States or the State, to the extent such lands are available, is not available for that purpose. If no public land is available the Secretary, prior to any federal expenditure for private land acquisition, shall--
 - (I) make an accounting of all habitat types located on publicly owned land throughout the solution area;
 - (II) not convert prime farm land and unique farm land, to the maximum extent as practicable, as identified by local, State, or Federal land use inventories, including the Natural Resources Conservation Service;
 - (III) not conflict with existing zoning for agriculture use;and

(IV) not involve other changes in existing environment due to location and nature of converting farmland to non-farmland use.

(ii) A requirement that in determining whether to acquire private land for ecosystem restoration, the Secretary shall--

(I) conduct appropriate analysis, including cost valuation to assure that private land acquisitions prioritize easements and leases over acquisition by fee title unless easements and leases are unavailable or unsuitable for the stated purposes;

(II) consider the potential cumulative impacts on the local and regional economies of transferring the property into government ownership and--

(aa) describe the actions that will be taken, to the maximum extent practicable, to mitigate any induced damages; and

(bb) determine that the land acquired will add increasing value to the purposes of ecosystem restoration;

(III) mitigate any potential induced damage, to the maximum extent practicable, of any conversion of agriculture land for ecosystem restoration due to the implementation of the CALFED Bay-Delta Program; and
(IV) partner with landowners and local agencies to develop cooperating landowner commitments that are likely to meet coequal objectives of achieving local economic and social goals and implementing the ecosystem restoration goals.

(8) WATERSHEDS- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$50,000,000 may be expended for the following:

(A) Building local capacity to assess and manage watersheds affecting the Bay-Delta solution area.

(B) Technical assistance for watershed assessments and management plans.

(C) Developing and implementing locally-based watershed conservation, maintenance, and restoration actions.

(9) WATER QUALITY- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$50,000,000 may be expended for the following:

(A) Addressing drainage problems in the San Joaquin Valley to improve downstream water quality, including habitat restoration projects that reduce drainage and improve water quality, provided that--

(i) a plan is in place for monitoring downstream water quality improvements;

(ii) State and local agencies are consulted on the activities to be funded; and

(iii) this clause is not intended to create any right, benefit, or privilege.

(B) Implementing source control programs in the Bay-Delta watershed.

(C) Developing recommendations through technical panels and advisory council processes to meet the CALFED Bay-Delta Program goal of continuous improvement in water quality for all uses.

(D) Investing in treatment technology demonstration projects.

(E) Controlling runoff into the California aqueduct and other similar conveyances.

(F) Addressing water quality problems at the North Bay Aqueduct.

(G) Studying recirculation of export water to reduce salinity and improve dissolved oxygen in the San Joaquin River.

(H) Projects that may meet the Objectives and Solution Principles of the water quality component of CALFED Bay-Delta Program.

(I) Development of water quality exchanges and other programs to make high quality water available to urban areas.

(J) Development and implementation of a plan to meet all existing water quality standards for which the State and Federal water projects have responsibility.

(10) LEVEE STABILITY- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$70,000,000 may be expended for the following:

(A) Assisting local reclamation districts in reconstructing Delta levees to a base level of protection not to exceed \$20,000,000.

(B) Enhancing the stability of levees that have particular importance in the system through the Delta Levee Special Improvement Projects program not to exceed \$20,000,000.

(C) Developing best management practices to control and reverse land subsidence on islands in the Bay-Delta watershed (not to exceed \$1,000,000).

(D) Refining the Delta Emergency Management Plan (not to exceed \$1,000,000).

(E) Developing a Delta Risk Management Strategy after assessing the consequences of failure levees in the Bay-Delta watershed from floods, seepage, subsidence, and earthquakes (not to exceed \$500,000).

(F) Developing a strategy for reuse of dredged materials on islands in the Bay-Delta watershed (not to exceed \$1,500,000).

(G) Evaluating and, where appropriate, rehabilitating the Suisun Marsh levees (not to exceed \$6,000,000).

(H) Integrated flood management, ecosystem restoration, and levee protection projects, including design and construction of lower San

Joaquin River and lower Mokelumne River floodway improvements and other projects under the Sacramento-San Joaquin Comprehensive Study (not to exceed \$20,000,000).

(11) MONITORING AND ANALYSIS- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$50,000,000 may be expended for the following:

(A) Establishing and maintaining an independent technical board, technical panels, and standing boards to provide oversight and peer review of the CALFED Bay-Delta Program.

(B) Conducting expert evaluations and scientific assessments of all CALFED Bay-Delta Program elements.

(C) Coordinating existing monitoring and scientific research programs.

(D) Developing and implementing adaptive management experiments to test, refine, and improve technical understandings.

(E) Establishing performance measures and monitoring and valuating the performance of all CALFED Bay-Delta Program elements.

(F) Preparing an annual science report.

(12) PROGRAM MANAGEMENT, OVERSIGHT, AND COORDINATION- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$25,000,000 may be expended by the Secretary, in cooperation with the State, for the following:

(A) CALFED Bay-Delta Program-wide tracking of schedules, finances, and performance.

(B) Multi-agency oversight and coordination of CALFED Bay-Delta Program activities to ensure program balance and integration.

(C) Development of interagency cross-cut budgets and a comprehensive finance plan to allocate costs in accordance with the beneficiary pays provisions of the Record of Decision.

(D) Coordination of public outreach and involvement, including tribal, environmental justice, and public advisory activities under the Federal Advisory Committee Act.

(E) Development of annual reports.

(13) DIVERSIFICATION OF WATER SUPPLIES- Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than \$30,000,000 may be expended to diversify sources of level 2 refuge supplies and modes of delivery to refuges and to acquire additional water for level 4 refuge supplies.

(e) AUTHORIZED ACTIONS- The Secretary and the Federal agency heads are authorized to carry out the activities authorized by this title through the use of grants, loans, contracts, and cooperative agreements with Federal and non-Federal entities where the Secretary or Federal agency head determines that the grant,

loan, contract, or cooperative agreement is likely to assist in implementing the authorized activity in an efficient, timely, and cost-effective manner.

SEC. 202. MANAGEMENT.

(a) **COORDINATION**- In carrying out the CALFED Bay-Delta Program, the Federal agencies shall coordinate, to the maximum extent practicable, their activities with the State agencies.

(b) **PUBLIC PARTICIPATION**- In carrying out the CALFED Bay-Delta Program, the Federal agencies shall cooperate with local and tribal governments and the public through a federally chartered advisory committee or other appropriate means, to seek input on program elements such as planning, design, technical assistance, and development of peer review science programs.

(c) **OBJECTIVE REVIEW AND ANALYSIS**- In carrying out the CALFED Bay-Delta Program, the Federal agencies shall seek to ensure, to the maximum extent practicable, that--

(1) all major aspects of implementing the CALFED Bay-Delta Program are subjected to credible and objective scientific review and economic analysis; and

(2) major decisions are based upon the best available scientific information.

(d) **AGENCIES' DISCRETION**- This Act shall not affect the discretion of any of the Federal agencies or the State agencies or the authority granted to any of the Federal agencies or State agencies by any other Federal or State law.

(e) **STATUS REPORTS**- The Secretary shall report, quarterly to the Congressional Committees, on the progress in achieving the water supply targets as described in Section 2.2.4 of the Record of Decision, the environmental water account requirements as described in Section 2.2.7, and the water quality targets as described in Section 2.2.9, and any pending actions that may affect the ability of the CALFED Bay-Delta Program to achieve those targets and requirements.

SEC. 203. IMPLEMENTATION SCHEDULE REPORT.

(a) The Secretary, in cooperation with the Governor, shall submit a report of the CALFED Bay-Delta Program not later than 90 days after the date of the enactment of this Act and December 15 of each year thereafter to the appropriate authorizing and appropriating Committees of the Senate and the House of Representatives that describes the status and projected implementation schedule of all components through fiscal year 2008 of the CALFED Bay-Delta Program. The Report shall contain the following:

(1) **STATEMENT OF BALANCE**- The report shall identify the progress in each of the categories listed in paragraph (2). The Secretary, in cooperation with the Governor, shall prepare and certify a statement of whether the program is in balance taking into consideration the following:

(A) The status of all actions, including goals, schedules, and financing agreements and funding commitments.

- (B) Progress on storage projects, including yield, conveyance improvements, levee improvements, water quality projects, and water use efficiency programs and reasons for any delays.
- (C) Completion of key projects and milestones identified in the Ecosystem Restoration Program.
- (D) Development and implementation of local programs for watershed conservation and restoration.
- (E) Progress in improving water supply reliability and implementing the Environmental Water Account.
- (F) Achievement of commitments under State and Federal endangered species laws.
- (G) Implementation of a comprehensive science program.
- (H) Progress toward acquisition of the State and Federal permits, including permits issued under section 404(a) of the Clean Water Act, for implementation of projects in all identified program areas.
- (I) Progress in achieving benefits in all geographic regions covered by the CALFED Bay-Delta Program.
- (J) Status of actions that compliment the Record of Decision.
- (K) Status of mitigation measures addressed under section 201(d)(7).
- (L) Revisions to funding commitments and CALFED Bay-Delta Program responsibilities.

(2) Accomplishments in the past fiscal year and year-to-date in achieving the objectives of--

- (A) additional and improved water storage; including supply and yield;
- (B) water quality;
- (C) water use efficiency;
- (D) ecosystem restoration;
- (E) watershed management;
- (F) levee system integrity;
- (G) water transfers;
- (H) water conveyance; and
- (I) water supply reliability.

(3) **REVISED SCHEDULE-** If the report and statement of balance under subsection (a) concludes that the CALFED Bay-Delta Program is not progressing in a balanced manner so that no certification of balanced implementation can be made, the Secretary, in consultation with the Governor, shall prepare a revised schedule to ensure that the CALFED Bay-Delta Program is likely to progress in a balanced manner consistent with the objectives and solution principles of the Record of Decision and in consideration of subsections (a) and (b) of this section. This revised schedule shall be subject to approval by the Secretary, in consultation by the Governor, and upon such approval shall be submitted to the appropriate authorizing and appropriating Committees of the Senate and the House of Representatives.

(b) CROSSCUT BUDGET AND AUTHORIZATION OF APPROPRIATIONS-

(1) CROSSCUT BUDGET- The President's Budget shall include the appropriate departmental and agency authorities, and request for the level of funding for each of the Federal agencies to carry out its responsibilities under the CALFED Bay-Delta Program. Such funds shall be requested for the Federal agency with authority and programmatic responsibility for the obligation of such funds. No later than 30 days after submission of the President's Budget to the Congress, the Director of the Office of Management and Budget shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives an updated interagency budget crosscut report, as required under Public Law 108-7.

(2) FINANCIAL SUMMARY- As part of the crosscut budget submission, a financial report certified by the Secretary, and the Office of Management and Budget, containing a detailed accounting of current year, budget year and all funds received and obligated by all Federal and State agencies responsible for implementing the CALFED Bay-Delta Program in the previous fiscal year, a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out through fiscal year 2008 the Federal portion of funds authorized under this title, and a list of all projects to be undertaken in the upcoming fiscal year with the Federal portion of funds authorized under this title.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary and the heads of the Federal agencies \$880,000,000 to pay the Federal share of programs and activities under this title for fiscal years 2004 through 2007, in accordance with the provisions of this title. The funds shall remain available without fiscal year limitation.

SEC. 205. FEDERAL SHARE OF COSTS.

(a) IN GENERAL- The Federal share of the cost of implementing of the CALFED Bay-Delta Program as set forth in the Record of Decision shall not exceed 33.3 percent.

(b) CALFED BAY-DELTA PROGRAM BENEFICIARIES-

(1) IN GENERAL- The Secretary shall ensure that all beneficiaries, including the environment, shall pay for benefits received from all projects or activities carried out under the CALFED Bay-Delta Program. This requirement shall not be limited to storage and conveyance projects and shall be implemented so as to encourage integrated resource planning.

SEC. 206. USE OF EXISTING AUTHORITIES AND FUNDS.

(a) **GENERALLY-** The heads of the Federal agencies shall use the authority under the alternative Acts identified by the Secretary to carry out the purposes of this title. Funds available under the alternative Acts shall be used before other funds made available under this title for the same activities.

(b) **USE OF FUNDS-** In addition to funds authorized and appropriated for section 201(d)(1) or section 201(d)(2), the Secretary, in consultation with the heads of the Federal agencies, may use money appropriated for any activity authorized under this title for any activity authorized under section 201(d)(1) or section 201(d)(2) if the Secretary, in consultation with the heads of the Federal agencies, determines that the funds appropriated for the other activity cannot be used for that other activity. This section shall be construed to apply to funds appropriated after the date of the enactment of this Act unless the Act appropriating the funds specifically and explicitly states that this section shall not apply to those funds.

(c) **USE OF UNEXPENDED BUDGET AUTHORITY-** The Secretary is authorized to utilize all unexpended budget authority under this title for any activity authorized under section 201(d)(1) or section 201(d)(2).

(d) **REPORT-** Not later than 60 days after the date of the enactment of this Act and annual thereafter, the Secretary, in consultation with the heads of the Federal agencies, shall transmit to Congress a report that describes the following:

- (1) A list of all existing authorities, including the authorities listed in subsection (a), under which the Secretary or the heads of the Federal agencies may carry out the purposes of this Act.
- (2) A list funds authorized in the previous fiscal year for the authorities listed under paragraph (1).
- (3) A list of the projects carried out with the funds listed in paragraph (2) and the amount of funds obligated and expended for each project.

SEC. 207. COMPLIANCE WITH STATE AND FEDERAL LAW.

Nothing in this Act--

- (1) invalidates or preempts State water law or an interstate compact governing water;
- (2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or final judicial allocations;
- (3) preempts or modifies any State or Federal law or interstate compact governing water quality or disposal; or
- (4) confers on any non-federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

TITLE III--SALTON SEA

SEC. 301. FUNDING TO ADDRESS SALTON SEA.

There is authorized to be appropriated to the Secretary \$300,000,000 for activities to address issues surrounding the Salton Sea.

TITLE IV--ESTABLISHMENT OF CENTRALIZED REGULATORY OFFICE

SEC. 401. ESTABLISHMENT OF OFFICE.

The Secretary shall establish an office, in Sacramento California, and may establish other offices in the capitol of any Reclamation State requesting such an office, for projects within their State, for the use of all Federal agencies and State agencies that are likely to be involved in issuing permits and conducting environmental reviews for water supply, water supply capital improvement projects, levee maintenance, and delivery systems in California or any Reclamation State requesting such an office.

SEC. 402. ACCEPTANCE AND EXPENDITURE OF CONTRIBUTIONS.

(a) IN GENERAL- The Secretary may accept and expend funds contributed by non-Federal public entities to expedite the consideration of permits and the conducting of environmental reviews for all projects described in section 401 and to offset the Federal costs of processing such permits and conducting such reviews. The Secretary shall allocate funds received under this section among Federal agencies in accordance with the costs such agencies incur in processing such permits and conducting such reviews. The allocated funds shall be for reimbursements of such costs.

(b) PROTECTION OF IMPARTIAL DECISIONMAKING- In carrying out this section, the Secretary and the heads Federal agencies receiving funds under this section shall ensure that the use of the funds accepted under this section will not impact impartial decisionmaking with respect to the issuance of permits or conducting of environmental reviews, either substantively or procedurally, or diminish, modify, or otherwise affect the statutory or regulatory authorities of such agencies.

TITLE V--RURAL WATER SUPPLY PROGRAM

SEC. 501. RURAL WATER SUPPLY PROGRAM.

(a) IN GENERAL- The Secretary is authorized to establish a program to plan, design, and construct rural water systems in coordination with other Federal agencies with rural water programs, and in cooperation with non-Federal project entities.

(b) REQUIREMENTS- Provisions to be included in the establishment of a rural water system shall include the following:

- (1) Appraisal investigations.
- (2) Feasibility studies.
- (3) Environmental reports.
- (4) Cost sharing responsibilities.
- (5) Responsibility for operation and maintenance.
- (6) Prohibition for funding for irrigation.

(c) CRITERIA- The Secretary is authorized to develop criteria for determining which projects are eligible for participation in the program established under this section.

(d) REPORTS TO CONGRESS- The Secretary shall submit to Congress the program developed under this section.

(e) RECLAMATION STATES- The program established by this section shall be limited to Reclamation States.

END